IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
(TYLER DIVISION)

ALL-AMERICAN PACKAGING, LLC,	§	
	§	
Plaintiff,	§	
	§	**C.A. No. 17-cv-00214**
v.	§	
	§	**JURY TRIAL DEMANDED**
KEURIG GREEN MOUNTAIN, INC.	§	
WESTROCK COMPANY	§	
	§	
Defendants.	§	
	§	
	§	
	§	
	§	

PLAINTIFF'S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff All-American Packaging, LLC files this Original Complaint against Defendants Keurig Green Mountain, Inc. and Westrock Company (collectively, "Defendants") for infringement of U.S. Patent No. 6,405,921 ("the '921 patent").

THE PARTIES

1. All-American Packaging, LLC ("AAP") is a Texas corporation with its principal place of business at 1400 Preston Road, Suite 475, Plano, Texas 75093.

2. Keurig Green Mountain, Inc. ("KGM") is a Delaware corporation with a principal place of business at 33 Coffee Lane, Waterbury, VT 05676. This Defendant may be served with process through its agent, Corporation Service Company, 2711 Centerville Rd Suite 400, Wilmington, Delaware 19808. This Defendant does business in the State of Texas and in the Eastern District of Texas.

3. WestRock Company ("WestRock") is a Delaware corporation with its principal place of business in Virginia. This Defendant may be served with process through its agent, Corporation Service Company, 2711 Centerville Rd Suite 400, Wilmington, Delaware 19808. This Defendant does business in the State of Texas and in the Eastern District of Texas.

JOINDER OF PARTIES

4. On information and belief, WestRock has sold or otherwise provided KGM the Accused Containers that are the subject of this Complaint for sale, resale, and distribution to its customers. Thus, the right to relief set forth herein is against KGM and WestRock, jointly and severally.

5. The alleged infringements set forth in this Complaint arises out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, offering for sale, selling, and/or importing of the Accused Containers.

6. Questions of fact common to all Defendants will arise in this action including, for example, infringement by, or through the sale of, the Accused Containers.

7. Thus, joinder of KGM and WestRock is proper in this litigation pursuant to 35 U.S.C. § 299(a).

JURISDICTION AND VENUE

8. This action arises under the patent laws of the United States, namely 35 U.S.C. §§ 271, 281, and 284, among others.

9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

10. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c), and 1400(b) because, among other things, each of the Defendants is subject to personal jurisdiction in this district, has regularly conducted business in this judicial district, and certain of the acts

complained of herein occurred in this judicial district. Further, a substantial part of the acts giving rise to the allegations of this Complaint occurred in this District.

11. On information and belief, each of the Defendants is deemed to reside in this judicial district, has committed acts of infringement in this judicial district, has purposely transacted business in this judicial district, and/or has regular and established places of business in this judicial district.

12. On information and belief, each of the Defendants is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Texas Long Arm Statute, due at least to its substantial business in this State and judicial district, including: (A) at least part of its infringing activities alleged herein; and (B) regularly doing or soliciting business, engaging in other persistent conduct, and/or deriving substantial revenue from goods sold and services provided to Texas residents.

COUNT I
(Direct Infringement of U.S. Patent No. 6,405,921)

13. AAP incorporates paragraphs 1 through 12 herein by reference.

14. AAP is the assignee of the '921 patent, entitled "Perforated carton and product display system," with ownership of all substantial rights in the '921 patent, including the right to exclude others and to enforce, sue, and recover damages for past and future infringements. A true and correct copy of the '921 patent is attached as Exhibit A.

15. The '921 patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

16. Defendants have and continue to directly and/or indirectly infringe (by inducing infringement and/or contributing to infringement) one or more claims of the '921 patent in this judicial district and elsewhere in Texas and the United States without the consent or authorization

of AAP, by or through their making, having made, offering for sale, selling, importing, and/or using perforated cartons, including, but not limited to, the containers such as the one shown below:

GREEN
MOUNTAIN
COFFEE
ROASTERS
Hazelnut Cream

17. Such perforated cartons, include, but are not limited to, containers used for Keurig K Cups (the “Accused Containers”).

18. Since at least service of the Original Complaint, Defendants’ infringement has been willful.

19. The Accused Containers comprise four side panels, a top panel, and a bottom panel, such that the panels coordinate to form a total of eight corners on the carton.

20. The Accused Containers also comprise perforations along the surface of at least two of said panels, such that the carton may be separated along the perforations into a display portion and a discardable portion, the display portion of the carton includes six of said eight corners.

21. The perforations provided along the top panel of the Accused Containers are located such that when the carton is separated into a discardable portion and a display portion, the display portion of the carton comprises at least two corners which are located in the plane of the top panel.

Further, the side panels on the display portion of the carton are adapted to reveal the contents of the carton upon separation of the carton at the perforations.

22. The Accused Containers directly infringe at least claim 9 of the ’921 patent.

(Indirect Infringement of U.S. Patent No. 6,405,921)

23. Additionally, WestRock is liable for indirect infringement of the ’921 patent because they induce and/or contribute to the direct infringement of the patent by their customers (including KGM). WestRock has had knowledge of the ’921 patent since at least the service of this Complaint. And since that time, WestRock has specifically intended and continues to specifically intend for its customers to infringe the ’921 patent.

24. Despite having knowledge of the ’921 patent, WestRock has specifically intended and continues to specifically intend for its customers to use the Accused Containers in a manner that infringes one or more claims of the ’921 patent. This is evident when WestRock encourages and instructs its customers to assemble the Accused Containers. In particular, WestRock designs packaging and provides instructional materials that specifically teaches its customers to use the Accused Containers in an infringing manner. By providing such instructions, WestRock knows or should know that its actions have, and continue to, actively induce infringement.

25. Additionally, WestRock has known that the Accused Containers include features, such as specific creases and perforations that work in concert to perform specific, intended functions. Such specific, intended functions, carried out by features, are a material part of the inventions of the ’921 patent and are not staple articles of commerce suitable for substantial non-infringing use.

26. On information and belief, WestRock provides the Accused Containers to KGM pursuant to one or more contractual agreements between them relating to, at least, the distribution,

sale, and operation of the Accused Containers. Accordingly, Defendants are jointly, severally, or alternatively liable for infringements described in this Count.

27. AAP has been damaged as a result of Defendants' infringing conduct described in this Count. Defendants are, thus, liable to AAP in an amount that adequately compensates AAP for Defendants' infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

JOINDER OF PARTIES

28. On information and belief, WestRock has sold or otherwise provided KGM the Accused Containers for sale, resale, and distribution to their customers for the benefit of their customers that are the subject of Count I. Thus, the right to relief against KGM is asserted jointly and severally with WestRock.

JURY DEMAND

AAP hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

AAP requests that the Court find in its favor and against Defendants, and that the Court grant AAP the following relief:

a. A judgment in favor of AAP and against Defendants on each of AAP's claims;

b. A judgment that the Defendants have directly infringed the patents-in-suit;

c. A preliminary and permanent injunction preventing Defendants and their officers, directors, agents, servants, employees, attorneys, licensees, successors, and assigns, and those in active concert or participation with any of them, from directly infringing, contributorily infringing, and inducing the infringement of the patents-in-suit;

d. A judgment that Defendants' infringement of the '921 patent has been willful;

e. A ruling that this case be found to be exceptional under 35 U.S.C. § 285, and a judgment awarding to AAP its attorneys' fees incurred in prosecuting this action;

f. A judgment and order requiring Defendants to pay AAP damages under 35 U.S.C. § 284, including supplemental damages for any continuing post-verdict infringement up until entry of the final judgment, with an accounting, as needed, and enhanced damages for willful infringement as provided by 35 U.S.C. § 284.

g. A judgment and order requiring Defendants to pay AAP the costs of this action (including all disbursements);

h. A judgment and order requiring Defendants to pay AAP pre-judgment and post-judgment interest on the damages awarded;

i. A judgment and order requiring that in the event a permanent injunction preventing future acts of infringement is not granted, that AAP be awarded a compulsory ongoing licensing fee;

j. That AAP be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: April 11, 2017

Respectfully submitted,

/s/ *Patrick J. Conroy*
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